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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Amendment of Parts 73 of the)
Commission's Rules to More Effectively)
Resolve Broadcast Blanketing Interference)
to Consumer Electronics and Other)
Communications Devices)

MM Docket No. 96-62

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To: The Commission

COMMENTS OF
NATIONAL PUBLIC RADIO, INC.

Introduction

National Public Radio, Inc. ("NPR") hereby submits its Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding. Notice of Proposed Rulemaking, FCC 96-124, rel. Apr. 26, 1996 ["NPRM"].

NPR is a non-profit membership organization of more than 540 full-service noncommercial educational radio stations nationwide. NPR produces and distributes such acclaimed programming as *All Things Considered*, *Morning Edition*, *Talk Of The Nation*, and *Performance Today*. NPR also provides satellite interconnection, representation, and membership services to its member stations.

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I. NPR Supports the Commission's Effort to Facilitate the Resolution of Blanketing Interference Problems, But It is Concerned that The Commission Not Overlook the Broader Communications Policy Implications of the Issue and the Rules Proposed in the NPRM

NPR supports the Commission's effort to modify its current blanketing interference rules to facilitate the resolution of complaints between licensees and the listening public. Additional clarification of the rules and the responsibilities of broadcast licensees promises to resolve blanketing interference complaints more readily once they arise. NPR is concerned, however, that the Commission not overlook the broader policy implications of the blanketing interference issue.

The existing blanketing interference rules and the modifications proposed in the NPRM focus on a licensee's responsibilities once a blanketing interference dispute has arisen.¹ In large measure, this focus is appropriate. Blanketing interference arises at commencement of operations or in response to a change by a licensee to its transmission system. In addition, the licensee, rather than the listening public, is often better equipped technically to identify the source of specific interference reports.

The Commission's existing and proposed rules are incomplete, however,

¹ See NPRM at ¶¶ 16-20.

because they virtually ignore both the Commission's role beyond that of arbitrating interference complaints and possible preventative means to avoiding blanketing interference. Specifically, the NPRM fails to address the general need for voluntary interference immunity standards,² the Commission's policy-making role, and the role and responsibilities of consumer electronics equipment manufacturers.

Perhaps the clearest example of this omission concerns the effect of radio frequency transmissions on new communications devices and services. Active Commission oversight and voluntary standards would be especially helpful in accommodating the introduction of new communications technology. Yet, in considering the possibility of increased blanket interference from the "proliferation of new communications devices," the Commission proposes simply to extend the time period in which licensees must resolve blanketing interference complaints.³

The omission is surprising, since equipment performance capability is an

² But see id. at ¶ 24 (soliciting comment on whether the Commission should rely on voluntary efforts to implement interference free design standards for telephones).

³ NPRM at ¶ 19.

important determinant of the number and severity of blanketing interference problems.⁴ Moreover, the Commission has sought to encourage improvements in consumer electronics performance in other contexts. For instance, the Commission has mandated, as one of the principal means of assuring greater compatibility between cable television service and consumer electronics equipment, the development of an updated Decoder Interface standard for use in the manufacture of television receivers.⁵ While that proposed standard is still evolving,⁶ the approach offers valuable benefits by encouraging the affected industry sectors to address compatibility issues in advance and thereby reduce the number and severity of problems.⁷

⁴ For years, noncommercial educational FM stations have been subject to transmission restrictions due to the proximity of the FM reserved spectrum to television channel 6. See Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations, Memorandum Opinion and Order, 58 R.R.2d 629 (1985). At various points in that protracted proceeding, the Commission acknowledged that the interference is largely the result of television set design inadequacies. See, e.g., id. at 631 (concurring with the need for receiver improvements); Public Notice, FCC 81-340, rel. July 22, 1981 (noting that "the problem is basically in the television receiver").

⁵ Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, First Report and Order, 75 R.R.2d 152, 162 [¶ 41] (1994) ("We wish to emphasize that we consider the Decoder Interface connector and associated component descrambler/decoders to be an important part of our equipment compatibility program and therefore are concerned that the new standard be completed as expeditiously as possible.") [First Report and Order].

⁶ Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Memorandum Opinion and Order, ET Docket No. 93-7, FCC 96-129, at ¶¶ 38-39 (rel. Apr. 10, 1996).

⁷ See also Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Fifth Further Notice of Proposed Rule Making, MM Docket No. 87-268, at ¶ 66 (rel.

NPR urges the Commission to pursue a comparable initiative in this proceeding to facilitate the development of standard signal interference immunity criteria. Such a standard would permit licensees and consumers to determine whether the licensee is responsible for ameliorating the interference or whether the interference is a function of the consumer's choice of non-compliant equipment.

While the development of an appropriate standard is a task properly borne by the private sector, the Commission has an important, catalytic role to play. First, it can encourage broadcasters and consumer electronics manufacturers to develop an appropriate standard, whether by the threat of administrative action⁸ or through the assistance of the Commission's expert engineering staff. Second, it can require manufacturers to inform the public, through product labeling, of equipment compliance with applicable standards.

As a result of these relatively unobtrusive regulatory measures, consumers would be able to make an informed choice based on their individualized needs. Of course, the Commission has long recognized the importance of consumer choice, including in selecting consumer electronics equipment.

If immunity standards are imposed by government regulation, the increased cost of achieving them will fall on all purchasers of home

May 20, 1996).

⁸ See First Report and Order at ¶ 41.

electronic entertainment equipment. It is quite conceivable that some consumers, given a choice, would prefer the less protected equipment at a lower cost. Some consumers may not experience interference at their location or may prefer to cope with the interference in other ways. An alternative to government regulation would be the provision of information to consumers on the interference immunity of various grades of equipment so that consumers could select the equipment which best met their individual needs. This might be done voluntarily by manufacturers and retail dealers or by a government requirement for equipment labeling which indicated the interference immunity of the product.⁹

When blanketing interference problems arise, moreover, both consumers and licensees can determine their rights and responsibilities more readily than by reference to a generic list of equipment types.

In adopting the current blanketing interference rules, the Commission rejected the suggestion that it adopt technical interference immunity rules.¹⁰ It did so based on the conclusion that “[a] more desirable [alternative to government imposed standards] would be voluntary standards developed by industry leaders.”¹¹ While NPR agrees with that conclusion, it also notes that more than a decade has passed since the Commission chose to defer to purely voluntary

⁹ In the Matter of Radio Frequency (RF) Interference to Electronic Equipment, 70 F.C.C.2d 1685, 1688 (1978).

¹⁰ In the Matter of FM Broadcast Stations Blanketing Interference, 57 R.R.2d 126, 130 (1984).

¹¹ Id.

standards setting efforts. The continuing absence of such standards demonstrates that more is necessary than merely hoping that this proceeding may, by generally raising the issue of blanketing interference, stimulate voluntary industry efforts.¹²

II. In a Number of Critical Respects, the Commission's Proposed Revisions Threaten to Impose Significant Burdens on Noncommercial Educational Broadcast Licensees

While the Commission is properly motivated by a desire to refine and clarify its blanketing interference rules,¹³ several elements of the NPRM could create additional uncertainty for licensees and the listening public, as well as potentially substantial financial liability for public broadcast licensees.

Of particular concern to NPR is the possible extension of the one-year period for remedying blanketing interference complaints.¹⁴ The NPRM questions, in particular, whether such an extension is warranted to accommodate the introduction of new communications services and devices. Simply stated, and as discussed above, such issues are better addressed by the Commission in the course of authorizing new communications services or devices rather than after the fact

¹² NPRM at ¶ 28.

¹³ Id. at ¶ 11.

¹⁴ Id. at ¶ 19

and at the expense of broadcast licensees.

The NPRM also questions whether the one-year remedial period should be extended when the interference occurs in locations of temporary lodging or transient residences. As an initial matter, it is not clear that such areas are clearly identifiable and distinguishable from other areas, especially in urban settings. Indeed, the task of defining such factors as the relevant geographic area, population density, rate of transiency, and the ratio of residential-to-commercial development, while necessary to avoid arbitrary results, is likely to undermine the Commission's goal of achieving greater clarity and certainty.

Assuming that areas of temporary lodging or transient residences could be adequately defined, the proposal would impose particular hardship on noncommercial licensees, of whom many are affiliated with universities.¹⁵ Such licensees would face potentially open-ended financial liability with each new class of students and as new teachers, administrators, and other university personnel move to the university campus and vicinity. The risk of such open ended financial liability would effectively prevent universities from upgrading their transmission facilities to better serve their communities.

¹⁵ 177 of NPR's affiliated stations are licensed to public or private colleges or universities.

Moreover, the circumstances in which the one-year remedial period could be extended are not necessarily limited. Thus, it appears that the Commission might expect licensees to remedy interference problems that arise when a geographic area is developed even years after the licensee established or modified its transmission facilities. Such an outcome, especially absent an effective interference immunity standard, would place an undue burden exclusively on broadcast licensees.

With regard to other elements of the NPRM, some of the proposed clarifications may well create, rather than diminish, uncertainty. In particular, the disparate treatment accorded portable radios and television (covered) and mobile ones (not covered) assumes a clear distinction among products manufactured by a number of companies, offering an array of features, and competing at various price levels.¹⁶

Finally, NPR recognizes the importance of good faith licensee efforts to resolve blanketing interference problems. If, in fact, such efforts are lacking, imposing mandatory response times may be appropriate.¹⁷ However, the proposal

¹⁶ See NPRM, Appendix A (proposed Section 73.1630).

¹⁷ See id. at ¶ 25.

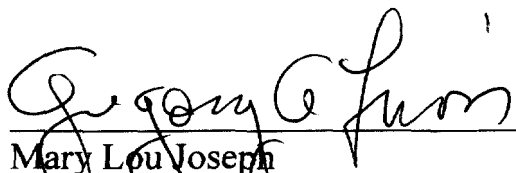
to require licensees to resolve complaints within 30 days should be modified to permit longer response times if necessary, for instance, because of the unavailability of necessary parts or equipment. It is not clear, moreover, that additional record-keeping requirements, given the cost to licensees, would markedly expedite the resolution of blanketing interference complaints.

Conclusion

For the foregoing reasons, the Commission should modify its final rules and take further appropriate action as suggested herein.

Respectfully Submitted,

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